

## **PHARMACEUTICAL ASSISTANCE TO THE AGED AND DISABLED**

**Current through L.2003, c. 1 to 252**

### **30:4D-20 Program; establishment**

The commissioner shall establish a program which shall be known as "Pharmaceutical Assistance to the Aged."

### **30:4D-21 Eligibility**

a. Any resident of this State who is either a recipient of disability insurance benefits under Title II of the federal Social Security Act (42 U.S.C. § 401 et seq.) or 65 years of age and over and whose annual income is less than \$16,624 if single or, if married, whose annual income combined with that of his spouse is less than \$20,383, shall be eligible for "Pharmaceutical Assistance to the Aged and Disabled" if he is not otherwise qualified for assistance under P.L.1968, c. 413 (C. 30:4D-1 et seq.). Annual income shall not include gain from the sale of a principal residence that is excluded from gross income pursuant to N.J.S. 54A:6-9.

b. Beginning January 1, 1996 and annually thereafter, the income eligibility limits provided in subsection a. of this section shall increase by the amount of the maximum Social Security benefit cost-of-living increase for that year for single and married persons, respectively. The commissioner shall adopt the new income limits annually by regulation pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.).

**30:4D-21.1 Repealed by L.1995, c. 27, § 3, eff. Feb. 19, 1995, retroactive to Jan. 1, 1995**

**30:4D-21.2 Reparations to Japanese American residents excluded from income for determination of eligibility under the Pharmaceutical Assistance to the Aged and Disabled program**

Funds received from the federal government pursuant to sections 105 and 106 of the "Civil Liberties Act of 1988," Pub.L. 100-383 (50 U.S.C.App. § 1989b-4 and § 1989b-5) shall not be counted as income for the purpose of determining eligibility for the Pharmaceutical Assistance to the Aged and Disabled program established pursuant to P.L.1975, c. 194 (C. 30:4D-20 et seq.).

**30:4D-21.3 Income eligibility; Holocaust restitution and compensation**

Amounts received as reparations or restitution for the loss of liberty or damage to health by the victims of National Socialist (Nazi) persecution; returns of tangible or intangible property seized, misappropriated, or lost as a result of

National Socialist (Nazi) actions or policies and any cash values in replacement of such property; payments of insurance policies purchased by the victims of National Socialist (Nazi) persecution; and any accumulated or accrued interest on such amounts shall not be counted as income for the purpose of determining eligibility for the Pharmaceutical Assistance to the Aged and Disabled program established pursuant to P.L.1975, c. 194 (C.30:4D-20 et seq.).

**30:4D-22      Payments to pharmacies for reasonable cost of prescription drugs; use of interchangeable drug product**

The program of "Pharmaceutical Assistance to the Aged and Disabled" shall consist of payments to pharmacies for the reasonable cost of prescription drugs of eligible persons which exceed a \$2.00 copayment. Said copayment shall be paid in full by each eligible person to the pharmacist at the time of each purchase of prescription drugs, and shall not be waived, discounted or rebated in whole or in part.

The commissioner may restrict the day supply of initial prescriptions to less than a 30 day supply in order to reduce waste and reduce inappropriate drug utilization. Subsequently, the commissioner may limit prescription drugs used in the treatment of acute care medical conditions to an amount not to exceed a 30 day supply. The commissioner may allow up to a 60 day supply or 100 unit doses, whichever is greater, of prescription drugs used in the treatment of chronic maintenance conditions.

Whenever any interchangeable drug product contained in the latest list approved and published by the Drug Utilization Review Council is available for the prescription written, an eligible person shall either:

- (1) Purchase an interchangeable drug product which is equal to or less than the maximum allowable cost, at the \$2.00 copayment; or
- (2) Purchase the prescribed drug product which is higher in cost than the maximum allowable cost and pay the difference between the two, in addition to the \$2.00 copayment, unless the prescriber specifically indicates that substitution is not permissible, in which case an eligible person may purchase the prescribed drug product at the \$2.00 copayment.

For purposes of this act:

- a. "Prescription drugs" means all legend drugs, including any interchangeable drug products contained in the latest list approved and published by the Drug Utilization Review Council in conformance with the provisions of the "Prescription Drug Price and Quality Stabilization Act" (P.L.1977, c. 240; C.

24:6E-1 et seq.), diabetic testing materials, and insulin, insulin syringes and insulin needles;

b. "Reasonable cost" means the maximum allowable cost of prescription drugs and a dispensing fee, as determined by the commissioner. In the case of diabetic testing materials, the maximum allowable cost is the manufacturer's suggested retail selling price or the pharmacy's usual over-the-counter price charged to other persons in the community, whichever is less;

c. "Resident" means one legally domiciled within the State for a period of 30 days immediately preceding the date of application for inclusion in the program. Mere seasonal or temporary residence within the State, of whatever duration, does not constitute domicile. Absence from this State for a period of 12 months is prima facie evidence of abandonment of domicile. The burden of establishing legal domicile within the State is upon the applicant;

d. "Diabetic testing materials" means blood glucose reagent strips which can be visually read, urine monitoring strips, tapes and tablets and bloodletting devices and lancets, but shall not include electronically monitored devices.

#### **30:4D-22.1 Expired**

#### **30:4D-22.2 Needles and syringes for medicines used to treat multiple sclerosis included as prescription drugs**

In addition to the "prescription drugs" defined pursuant to section 3 of P.L.1975, c. 194 (C. 30:4D-22), "prescription drugs" also means syringes and needles for injectable medicines used for the treatment of multiple sclerosis.

#### **30:4D-23 Prescription drug costs; payment under other plan or insurance; effect on eligibility**

Any otherwise eligible person whose prescription drug costs are wholly covered by any other plan of assistance or insurance shall be ineligible for assistance under the provisions of this act. Any otherwise eligible person whose prescription drug costs are covered in part by any other plan of assistance or insurance may be required to receive reduced assistance under the provisions of this act.

#### **30:4D-24. Regulations**

The commissioner shall by regulation establish a system of payments or reimbursements and a system for determining eligibility, including provisions for submission of proof of actual and anticipated annual income, and evidence of complete or partial coverage of prescription drug costs by any other assistance or insurance plans.

### **30:4D-25 Legislative Findings and Declarations**

The Legislature hereby finds and declares:

That the "Pharmaceutical Assistance to the Aged" program originally provided for the reimbursement of 80% of the prescription drug costs of low-income senior citizens who had met an income-related deductible drug expense;

That this program, designed to ease the burden of spiraling drug costs for senior citizens of modest incomes, was later modified to facilitate and simplify access to the program by requiring eligible senior citizens to pay \$1.00 for each prescription drug at the time of purchase, with the State reimbursing the remainder of the cost directly to the pharmacist;

That the overwhelming success of the program, which currently boasts an enrollment of over 270,000 senior citizens, has resulted in costs far greater than those anticipated;

That although the Legislature is desirous of continuing the program as it currently exists, it recognizes that fiscal constraints and a heightened public awareness of the taxpayer's burden in this State makes it necessary to increase the share now paid by eligible senior citizens and reduce anticipated increases in the State contributions to the program in the future; and that therefore a long-term legislative solution is now necessary which establishes this excellent and salutary program on a sound fiscal basis at a level within the means of the Treasury, thereby enabling it to continue without further substantial modification.

### **30:4D-26 Prescription; inclusion of name and address or identification number**

A prescription may not be included under the program unless it contains the name and address or identification number of the eligible person.

### **30:4D-27 Notice of penalties on identification cards**

The commissioner shall include on the identification cards used in the program a conspicuous notice of the penalties for violating the provisions of this act.

### **30:4D-28 Report to Governor and legislature**

Within 6 months of the effective date of this act, the commissioner shall submit a report to the Governor and the Legislature including but not limited to the following:

- a. The effects of definitional changes in the statute, such as residency and legend drugs;
- b. The use of drug utilization review methods in order to curtail the abuse or inappropriate use of particular drugs;
- c. A cost-analysis of alternative methods for administering the program and reimbursing participating pharmacists;
- d. The effects of excluding from eligibility those persons whose prescription drug costs are covered in part by any other plan of assistance or insurance.

**30:4D-29 List of maximum quantity of drug to be dispensed per prescription**

Within 6 months after the effective date of this act, the commissioner shall, after consultation with the Drug Utilization Review Council and other authorities, prepare a list stating, for each prescribed drug, the maximum quantity which may be dispensed per prescription.

**30:4D-30 Maximum allowable cost per prescription drug; procedure to set and review on continuing basis**

Within 6 months from the effective date of this act, the commissioner shall establish a procedure for setting and reviewing on a continuing basis the maximum allowable cost per prescription drug under the program.

**30:4D-31 List of maximum quantities and procedures for setting maximum allowable cost; effective date**

The list of maximum quantities per prescription prepared under section 6 of this act and the procedures for setting the maximum allowable cost under section 7 of this act shall not take effect until the end of a period of 60 calendar days after the date on which the plan is transmitted to the Senate and General Assembly on a day in which both Houses are in session unless, between the date of transmittal and the end of the 60-day period the Legislature, upon a review of such plan by the Institutions, Health and Welfare Committees of both Houses acting jointly, passes a concurrent resolution stating in substance that the Legislature does not approve of the plan. Any plan submitted following such disapproval shall be subject to the same procedure.

**30:4D-32 Annual report**

The commissioner shall issue an annual report to the Governor and the Legislature by October 1 of each year. Such report shall include a summary of

"Pharmaceutical Assistance to the Aged" program activities for the preceding fiscal year and any recommendations or suggestions for legislative consideration.

**30:4D-33      Violations; penalties**

Any person violating any provision of this act shall be subject to the applicable civil and criminal penalties contained in the "New Jersey Medical Assistance and Health Service Act" (P.L.1968, c. 413, C. 30:4D-1 et seq.). Any eligible person who violates any provision of this act shall be subject to a suspension of their eligibility for one year for a first offense and permanent revocation of their eligibility for a second offense.

**30:4D-34      Reimbursement for costs of prescription drugs; application and proof of expenditure**

Any eligible person under the program of Pharmaceutical Assistance to the Aged shall, upon the submission of such application and proof of expenditure as the department may prescribe, be reimbursed for the cost of all prescription drugs purchased by such person, minus a \$2.00 copayment per prescription, during the period commencing 30 days after such person's properly completed application was received by the department and ending on the date on which such person received his proof of eligibility from the department; provided, however, that no reimbursement under this act shall be made for any prescription drug purchased prior to the effective date of this act.

**30:4D-35      Notice of availability and application forms; supplying to eligible persons**

The department shall provide a notice of the availability of such reimbursement and an application form therefor to every eligible person.

**30:4D-35.1 to 30:4D-35.4      Expired**

**30:4D-35.5      Repealed by L.1993, c. 97, § 3, eff. Mar. 29, 1993**